

Filed electronically on August 11, 2009

PATENT
Dkt. HO-P02393US0

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Timothy E. Grib and Michael A. Brown**
Assignee: **LEVEL 3 COMMUNICATIONS, LLC**
Application No.: **09/964,232** Group No.: **2443**
Filed: **September 26, 2001** Examiner: **Kyung H. Shin**
For: **METHOD AND APPARATUS FOR PERFORMANCE MEASUREMENT
OF DIFFERENT NETWORK ROUTES BETWEEN DEVICES**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**STATEMENT IN SUPPORT OF PETITION FOR REVIVAL OF AN
APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY
UNDER 37 C.F.R. §1.137(b)**

Sir:

This statement is provided in support of the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. §1.137(b). The entire delay in filing the required reply from the due date until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b)(3) was unintentional.

A Request for Non-publication under 35 U.S.C. 122(b)(2)(B)(i) was filed for the above application on September 26, 2001, by counsel that was originally handling the prosecution of this case. This application was then transferred to different counsel, after which a PCT application was filed claiming priority to the above referenced application on September 25, 2002 as PCT/US2002/030334, subsequently published as WO/2003/027883 on April 3, 2003. The counsel who was handling this case at the time the PCT application was filed apparently failed to file a Rescission of Non-Publication

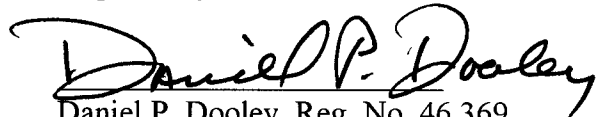
Request, which resulted in abandonment. (It is noted that the original request for non-publication was made in transmittal correspondence and not as a separate paper, which may have contributed to the oversight.) This file has since been transferred to the office of the undersigned for handling, and after a recent file review, the prior error was realized.

Applicant respectfully requests that the Director review the above STATEMENT IN SUPPORT OF PETITION FOR REVIVAL, approve the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. §1.137(b) and accept the payment of the fees for filing of the PETITION and RESCISSION OF PREVIOUS NON-PUBLICATION REQUEST for U.S. Patent Application, S.N. 09/964,232.

The Director is invited to contact the below signed attorney, if any questions arise concerning this STATEMENT and PETITION.

Respectfully submitted,

Date: 8-11-09



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